

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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MASIH H. MUHAMMAD,

Plaintiff,

Case No. 1:08cv349

v.

Hon. Robert J. Jonker

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER AND JUDGMENT**  
**APPROVING REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties on December 4, 2008. Objections by Plaintiff were filed under 28 U.S.C. § 636(b)(1)(C), on December 9, 2008. The objections do not address the merits of the case.

A *de novo* review of this matter reveals that a decision to deny Plaintiff's claims for a period of disability, disability insurance benefits, and supplemental security income was made by the Administrative Law Judge (ALJ) on January 9, 2008. Plaintiff then filed a request for a review by the Appeals Council on January 10, 2008. This civil action was filed on April 16, 2008. A judicially reviewable final decision was not yet made by the Appeals Council. Thus, this Court finds that Plaintiff failed to exhaust the administrative remedies available to him and must dismiss this action for lack of subject matter jurisdiction.

**THEREFORE, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge, filed December 4, 2008, is approved and adopted as the opinion of the Court.

**IT IS FURTHER ORDERED** that the Defendant's motion to dismiss for lack of jurisdiction is **GRANTED**. This matter is concluded.

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE

DATED: February 25, 2009